

UTAH AIR QUALITY BOARD MEETING
July 6, 2005

MINUTES

I. Call to Order.

John Veranth called the meeting to order at 1:05 p.m.

Board members present:

Nan Bunker	Dianne Nielson	Marcelle Shoop
Jerry Grover	Wayne Samuelson	John Veranth
Jim Horrocks	JoAnn Seghini	Ernest Wessman

Acting for Executive Secretary: Cheryl Heying

II. Next Meeting.

August 3, 2005, and September 7, 2005.

III. Minutes.

There was one correction in the court reporter minutes located on page 48, line 22. The word “coal” in the phrase “coal technology mean,” should be changed to “control.”

- Jim Horrocks moved to approve the minutes, Nan Bunker seconded, and the Board approved unanimously.

IV. Election of Board Chair and Vice Chair.

- Jim Horrocks moved to nominate John Veranth as Board Chairman, and Wayne Samuelson seconded. Motion to close nominations by Nan Bunker and seconded by Wayne Samuelson. The Board approved the nomination unanimously.
- Jim Horrocks moved to nominate Ernest Wessman as Board Vice Chairman, and Wayne Samuelson seconded. Motion to close nominations by Nan Bunker and seconded by Marcelle Shoop. The Board approved the nomination unanimously.

Note: The agenda items were presented out of order, but for the minutes, they will be presented in order.

V. Propose For Final Adoption: R307-110-10 and State Implementation Plan IX.A.10, 11, and 12, PM₁₀ Maintenance Plans for Salt Lake County, Utah County, and Ogden City; and R307-110-17 and State Implementation Plan IX.H, Emission Limits and Operating Practices. Presented by: Bill Reiss.

Mr. Reiss stated that in March the Board approved the proposed PM₁₀ Maintenance Plan for public comment. Comments were received, reviewed, and used to refine the proposal. Time would expire on this proposal if it were not voted on today.

This plan will pick up where the existing PM₁₀ State Implementation Plan (SIP) left off. The SIP brought the state into compliance with the PM₁₀ standards in 1994, and the plan will demonstrate another ten years of continued maintenance.

The structured maintenance plan will allow staff to request that EPA change the area designations to attainment. The SIP document in Part A addresses an overview of monitored attainment, why it was attained, modeled demonstration of maintenance, conformity budgets, and contingency measures.

Part H discusses emission limits for all large sources within Utah and Salt Lake Counties, as well as any large sources specifically included in the existing PM₁₀ SIP.

Mr. Reiss reviewed the various sections. Generally there were no new restrictions that appear in the proposed conditions. There would be limits on the most significant source components only.

Document Organization: EPA thought it would be in the best interest to separate the plan into three attainment areas, and that is reflected in the final proposal before the Board.

Monitored Air Quality Data: Several people sent in comments which took issue with the approach that staff looked only at data that had not been flagged as unusual. Staff stands by the basic approach and has included ample discussion of the data that had been excluded. Staff feels that flagged data is not representative of the air quality in the maintenance areas.

Contingency Measures: The proposed Part H is substantially different from what is presently included for sources in Salt Lake and Davis Counties. As part of the development of this plan, Department of Air Quality (DAQ) is re-defining recommended Reasonable Available Control Techniques (RACT) to focus on those emission components that have a significant impact on PM₁₀ concentrations. The modeling analysis that was done in support of the plan shows quantitatively that this is adequate to maintain the PM₁₀ standard.

Motor Vehicle Emissions Budget (MVEB) /Conformity: The plan includes mobile source emission budgets to be used in subsequent conformity demonstrations.

General Provisions of Part H: Mr. Reiss discussed opacity, fugitive dust, and stack testing.

Staff recommends that the Board adopt the PM₁₀ Maintenance Plan as revised for Salt Lake County, Utah County and Ogden City.

Board members asked questions about the diesel I/M Program, baseline dates, safety margin, and banked emissions. Mr. Reiss responded to all questions and the Board made no changes in the Plans. There was a correction in Section Part H, page 18, line 42, which should be amended from “R307-201-1 (7),” to read “R307-305-3 (4).”

- Jim Horrocks moved to approve the State Implementation Plan for subsection IX.A.10 for Salt Lake County, IX.A.11 for Utah County, and IXA.12 for Ogden City. Ernie Wessman seconded and the Board approved unanimously.
- Jim Horrocks moved to approve R307-110-10 incorporating the PM₁₀ SIP section IX.A.1-9, Ernie Wessman seconded and the Board approved unanimously.
- Jim Horrocks moved to approve the State Implementation Plan IX.H, Emission Limits for Salt Lake County and Utah County with revision on page 18, line 42. It should be changed from: “R307-201-1 (7)” to “R307-305-3 (4).” Ernie Wessman seconded and the Board approved unanimously.
- Jim Horrocks moved to approve R307-100-17 to incorporate emission limits in IX.H. Ernie Wessman seconded and the Board approved unanimously.

VI. Propose For Final Adoption: Amend R307-101-2, R307-165, R307-201, R307-204, R307-205, R307-206, R307-302, R307-305, R307-309, and R307-310; New Rules R307-207 and R307-306. Presented by: Mat Carlile and Colleen Delaney.

Mr. Carlile stated that on March 9, 2005, the Board proposed for comment amendments to R307-101-2, R307-165, R307-201, R307-204, R307-205, R307-206, R307-302, R307-305, R307-309, and R307-310. In addition, the Board proposed new rules R307-207 and R307-306. These rules were proposed for comment for the following reasons: First, many of the requirements in the current rules apply only to PM₁₀ nonattainment areas. Also, amendments were needed to ensure that the requirements continue to apply in PM₁₀ maintenance areas. Next, the rules were clarified by removing outdated requirements, and by making the requirements easier to find and understand. Finally, amendments were also proposed to separate the rules into two categories, attainment area rules, and rules that apply only in nonattainment and maintenance areas. Three public hearings were held, and comments were received on the proposals. The summary of comments and DAQ responses are attached with the PM₁₀ maintenance plan.

During the March Board meeting, Dr. Dianne Neilson asked staff to check on diesel locomotive emissions limits above 6000 feet. After researching the issue and talking with the railroads and EPA, staff has added clarifying language that locomotives are exempt from emissions limits found in R307-201-3 (5) and R307-305-3 (3). Staff will continue to work with the railroad to reduce emissions.

Marcelle Shoop asked follow-up questions relating to locomotive emission exemption. Mr. Carlile responded to these questions.

The excess emissions provision in R307-305 was erroneously left out when there was a separation of the rules into two categories, attainment area rules, and rules that apply only in nonattainment and maintenance areas. Staff proposed to correct the error.

Ms. Shoop asked additional questions about excess emissions provisions and R307-201 and R307-305. After discussion, staff was instructed to go back to the original language in the excess emissions provisions of R307-201-3 (7) and to adopt the same language in R307-305-3 (4). Ms. Shoop raised concerns about the proposed change in wind speed found in R307-309-5 (2). After discussion, staff was instructed to revert this provision back from 30 miles to 25 miles per hour.

- Jerry Grover moved to approve for final adoption, R307-101-2, R307-165, R307-204-3, R307-205, R307-206, R307-207, R307-302, R307-306, and R307-310. Ernie Wessman seconded and the Board approved unanimously.
- Jerry Grover moved to adopt R307-201, except for section R307-201-3 (7) to revert back to the original language. Ernie Wessman seconded and the Board approved unanimously.
- Jerry Grover moved to adopt R307-305 as proposed, except section R307-305-3 (4) to be identical to the existing language of R307-201-3 (7). Jim Horrocks seconded and the Board approved unanimously.
- Jerry Grover moved to approve R307-309, except for section R307-309-5 (2) to change the proposed wind speed from 30 miles per hour back to 25 miles per hour. Nan Bunker seconded and the Board approved unanimously.

VII. Propose For Final Adoption: New Rule R307-421, PM₁₀ Offset Requirements in Salt Lake County and Utah County; and Modification to R307-101-2, Definition of “Baseline Date.” Presented by: Colleen Delaney.

Ms. Delaney indicated that on March 9, 2005, the Board proposed for comment a new rule, R307-421, PM₁₀ Offset Requirements in Salt Lake County and Utah County. This rule would maintain the PM₁₀ nonattainment area offset requirements for sulfur dioxide (SO₂) and nitrogen oxides (NO_x) when the areas are redesignated to attainment for PM₁₀. The offset requirements will work in conjunction with the Prevention of Significant Deterioration (PSD) permitting program to ensure on-going attainment of the PM₁₀ standard because the emission offsets will address the secondary formation of PM₁₀ from SO₂ and NO_x.

The Board also proposed a change to the definition of “Baseline Date” in R307-101-2 to be the date that EPA approves the PM₁₀ Maintenance Plan, and the SO₂ Maintenance Plan for the affected areas. This change is necessary to meet the goals of the PSD program, and to ensure that the PSD increment analysis is meaningful.

Staff recommends the adoption of R307-421 and R307-101-2, with the correction of the date of adoption of the PM₁₀ Maintenance Plan from June 1, 2005, to July 6, 2005.

NOTE: The following italicized section was added at the request of Marcelle Shoop per August 5, 2005 minutes.

Commissioner Grover and Ms. Shoop asked for a clarification of how the banked emissions in the PM₁₀ maintenance plan would affect the permitting program. Ms. Delaney explained that the banked emissions would be available for use as offsets under the new rule, R307-421. These banked emissions would not have any meaning under the PSD permitting program, however, because the PSD program is not looking back at the

SIP demonstration to determine compliance with the NAAQS. Instead, the PSD program evaluates the affect of a new source based on current ambient measurements. Ms. Delaney gave an example of a new 500 ton SO₂ source that would be located in Salt Lake County. Under the new rule R307-421, that source would be required to obtain SO₂ offsets to address the secondary formation of PM₁₀ in the Salt Lake County maintenance area. The offsets could be obtained from banked emissions. That same source would also be evaluated under the PSD program for impact on the SO₂ NAAQS. The emissions from the new source would be modeled using current ambient SO₂ levels as the background to see if the source would cause a violation of the SO₂ NAAQS. Banked emissions would not be a part of this modeling. The SO₂ increment consumption would also be evaluated. The source would not be evaluated under the PSD program for PM₁₀ because precursors are not currently addressed in the PSD program.

Ms. Shoop asked for a more detailed explanation for why the staff was recommending changing the definition of baseline date. Ms. Delaney explained that a major baseline date of January 5, 1975 corresponded to the date of the first PSD program. EPA wanted to give credit to sources that reduced emissions after this date, even though the minor source baseline date had not been triggered. In 1975 four counties along the Wasatch Front were nonattainment for TSP and Salt Lake County was nonattainment for SO₂. If 1975 is considered the major source baseline date in these areas, then all of the emission reductions that occurred to bring these areas into attainment for the TSP and SO₂ NAAQS (and the subsequent PM₁₀ NAAQS) would essentially expand the increment to a level that exceeds the NAAQS. This would make an increment analysis meaningless because a new source would cause a violation of the NAAQS well before the source approached the baseline level, much less the increment of degradation that is allowed beyond that baseline level. The CAA does not address the transition of nonattainment areas to the PSD program, and it is contrary to the overall purpose of PSD to expand increment while the area is nonattainment. By making the major source baseline date the date that the area is redesignated to attainment, the PSD increment becomes meaningful, and allows growth in emissions in the area, without completely eroding the gains that have been made due to the TSP, SO₂ and PM₁₀ SIPs. The PSD program focuses on keeping clean areas clean. EPA's comments on this rule change asked for further justification of how this would be permitted under the language of the CAA. UDAQ will continue to discuss this with EPA.

- Dianne Nielson moved to approve the adoption of new rule R307-421, and modify R307-101-2 "Baseline Date" to July 6, 2005. JoAnn Seghini seconded and the Board approved unanimously.

VIII. Scheduling of Discovery Matters for NEVCO Appeal and Determination of Role of Amici Curiae. Presented by: Fred Nelson.

Mr. Nelson reported that the parties had met and agreed upon a schedule to handle the hearing in this matter. The discovery process will occur up through the first part of October 2005. There will be a certain time frame to file motions. The Board will hear any motions in November 2005, and set a hearing date at that time. All parties will follow R307-103. Mr. Nelson discussed the role of the amicus parties that they would be allowed to submit briefs on any dispositive motions and pre-hearing and post-hearing briefs. They would also participate in oral arguments on those matters. The amicus parties will not be allowed to do discovery, but will be allowed to attend depositions.

Ernie Wessman recused himself from this item.

- JoAnn Seghini moved that the Board accept the schedule and description of the amicus status. Nan Bunker seconded and the Board approved unanimously.

IX. Propose For Final Adoption: R307-101-2, Update Definition of Volatile Organic Compounds. Presented by: Jan Miller.

Ms. Miller reported that the update went out for public comment and was followed by a public hearing. No one attended the hearing, and no comments were received. Staff recommends the proposal be adopted.

- Ernie Wessman moved to approve R307-101-2, Update Definition of Volatile Organic Compounds. Jerry Grover seconded and the Board approved unanimously.

X. Propose To Approve Five-Year Reviews and Continuation of Rules: Presented by Jan Miller.

A. R307-115, General Conformity.

B. R307-320, Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program.

Ms. Miller reported to the Board that Title 40, Part 93, Subpart B, of the Code of Federal Regulations, requires that states set up procedures for federal agencies to follow to determine that projects do not interfere with SIP plans. Subpart B meets that requirement and has been approved by EPA. There have been no amendments to Subpart B and no need to change R307-115.

- Jim Horrocks moved to approve R307-115, General Conformity and Marcelle Shoop seconded and the Board approved unanimously.

Ms. Miller explained that rule R307-320 is part of the Ozone Maintenance Plan. The state statute allows the Board to apply the rule to federal, state and local government agencies, including school districts. It can also be applied to private business, but that has never been done. There are about 80 agencies that are affected by this rule. The Bureau of Reclamation has the lowest drive-alone rate at 35%. This program began in 1994 with UTA doing most of the promotional work. DAQ collects statistics once each year.

- Jerry Grover moved to approve the Five-Year Reviews and Continuation of Rules B. R307-320, for Davis County, Salt Lake County, Utah County, and Ogden City: Employer-Based Trip Reduction Program. Wayne Samuelson seconded and the Board approved unanimously.

Cheryl Heying presented the advertisements that Environmental Quality has placed in the Deseret News and Salt Lake Tribune regarding the Choose Clean Air Campaign.

XI. Propose to Approve to Modify the Equipment Requirement in Approval Order DAQE#862-01 or Kennecott Copperton Concentrator Site. Presented by: Nando Meli.

Mr. Meli reported that Kennecott had requested approval to add two pebble-crushing units and related material handling equipment to the site. This would increase the process efficiency. The stack testing requirements had been removed and these modifications would actually decrease emissions. Before any modifications can be made, the Board must give approval. The concentrator has been removed as a SIP source in the new proposed SIP. The staff recommends these changes for Kennecott Copperton Concentrator.

Marcelle Shoop recused herself from this item.

- Ernie Wessman moved to approve the modified equipment requirement in Approval Order DAQE#862-01 to reflect the current conditions. Wayne Samuelson seconded and the Board approved unanimously.

XII. Propose to Modify the Requirements in Approval Order DAQE#664-99 for Kennecott Tailings Impoundment Area to Reflect Current Condition. Presented by: Nando Meli.

Mr. Meli reported that all modifications that are listed in the SIP are required to have previous Board approval. Kennecott has requested the approval to update the Approval Order (AO) to address only active impoundment areas, propose language referencing the fugitive dust abatement plan, and lower emission estimates. These modifications will decrease the tailings impoundment PM₁₀ emissions, will be consistent with the AO, and not conflict with any proposed SIP conditions.

Marcelle Shoop recused herself from this item.

- Ernie Wessman moved to approve, Nan Bunker seconded and the Board approved unanimously.

XIII. Informational Items.

- A. Compliance.** No comments
- B. HAPS.** No Comments
- C. Monitoring.** Presented by: Bob Dalley

Mr. Dalley discussed the highest PM₁₀ and PM_{2.5} for May and June, and they were below the standard. The highest values recorded were during some high wind-day events. A graph was handed out showing the high hourly PM₁₀ and PM_{2.5} values during the fireworks at Ogden and Lindon. There was also a graph showing the highest ozone values in May and June. The highest ozone days occurred when there was smoke from fires in southern Utah and southern Nevada.

Meeting adjourned at 4:30 pm.